

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DEANGELAS DEMOYNE COOK,

No. 19-2511 (JRT/LIB)

Plaintiff,

v.

MEMORANDUM OPINION AND ORDER

DEBRA RADZAK, *Blue Earth County Court
Reporter,*

Defendant.

Deangelas Demoyne Cook, OID # 200363, MCF Faribault, 1101 Linden Lane,
Faribault, MN 55021, *pro se*.

Plaintiff Deangelas Cook initiated this pro se action pursuant to 42 U.S.C. § 1983 against Defendant Debra Radzak, a Blue Earth County Court Reporter, alleging that she inaccurately transcribed the proceedings of a previous case in which Cook was the defendant. (Compl. at 4–5, Sept. 12, 2019, Docket No. 1.) Cook seeks production of recordings of the proceedings and requests that all persons involved in making the transcript swear under oath as to the accuracy of its contents . (*Id.* at 5.)

After initially failing to effect service of process on Defendant within 90 days, the Magistrate Judge granted Cook a 30-day extension to serve Defendant. (Order, Oct. 23, 2020, Docket No. 12.) On November 2, 2020, Cook filed a document titled “Certificate of Personal Service” which states that the Summons and Complaint were served on

“Kiersten” for Defendant Debra Radzak. (Summons Returned, Nov. 2, 2020, Docket No. 13.)

Finding the document insufficient proof of service because it did not establish that Defendant herself was served or what relationship “Kiersten” has to the Defendant, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the present action be dismissed without prejudice for failure to comply with court order and failure to effect proper service. (R&R at 2, Feb. 23, 2021, Docket No. 14.) Cook then filed a Motion to Amend the Complaint, seeking to clarify his claims. (Mot. Amend Compl., Feb. 26, 2021, Docket No. 15.)

First, the Court will adopt the R&R and dismiss the Complaint without prejudice. Because Cook has not specifically objected to any portion of the R&R—his pending Motion does not address deficient service of the Complaint—the Court need not review the R&R de novo. *See* Fed. R. Civ. P. 72. Even so, the Court concludes that Cook has not shown that he properly served Defendant Radzak. Federal Rule of Civil Procedure 5(b) lists the various methods to serve pleadings on a party, and Cook has not established that purported service in this case complies with any of them.

Second, because the Court adopts the R&R dismissing the action without prejudice for failure to comply with court order and effect service, the Court will deny Cook’s Motion to Amend the Complaint as moot. The proposed amended complaint cannot address the deficiencies leading to dismissal. However, because dismissal is without

prejudice, Cook may initiate another action should he wish to continue pursuing his claims against Defendant. If Cook chooses to file another action, he will be required to properly effect service of a complaint and summons for the Court to reach the merits of his claims.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Report and Recommendation [Docket No. 14] is **ADOPTED**;
2. Plaintiff's Motion to Amend the Complaint [Docket No. 15] is **DENIED as moot**; and
3. The action is **DISMISSED without prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: June 29, 2021
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court